

LAWS OF FIJI

Revised Edition 1985]

CHAPTER 134

NATIVE LAND TRUST

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*Ordinances Nos. 12 of 1940,
16 of 1943,
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13 of 1951,
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11 of 1966,
19 of 1968,
16 of 1970,
Legal Notice 112 of 1970,
Act No. 1 of 1978*

**AN ACT RELATING TO THE CONTROL AND ADMINISTRATION OF NATIVE
LAND**

[7 June 1940]

PART I - PRELIMINARY

Short title

1. This Act may be cited as the Native Land Trust Act.

Interpretation

2. In this Act, unless the context otherwise requires -

"Board" means the Native Land Trust Board established under section 3;

"native grant" means a grant of land by native owners;

"native land" means land which is neither Crown land nor the subject of a Crown or native grant but includes land granted to a mataqali under section 18;

"native owners" means the mataqali or other division or subdivision of the natives having the customary right to occupy and use any native land;

"native reserve" means land set aside and proclaimed as such under the provisions of this Act;

"Secretary" means the Secretary of the Board appointed under section 30.

(Amended by Ordinance 30 of 1945, s. 2; 19 of 1968, s. 2; Legal Notice 112 of 1970.)

Constitution of Board

3. -(1) There is hereby established a board of trustees called the Native Land Trust Board which shall consist of -

the Governor-General as President, the Minister as Chairman, five Fijian members appointed by the Great Council of Chiefs, three Fijian members appointed by the Fijian Affairs Board from a list of nominees submitted by provincial councils to the Fijian Affairs Board, and not more than two members of any race, appointed by the Governor-General.

(2) (a) An appointment shall not be made under subsection (1) so that more than one of the appointed, members, other than Fijian appointed members, is a person holding an office of emolument under the Crown.

(b) Appointed members of the Board other than Fijian appointed members shall, unless they die or resign, hold office during the Governor-General's pleasure. Fijian appointed members of the Board shall, unless they die or resign, hold office for a period of three years.

(3) At all meetings of the Board, the Governor-General or in his absence, the Minister, shall preside. In the absence of the Governor-General and the Minister, the members present shall elect one of their number to preside.

(4) (a) Five members shall form a quorum one of whom shall be the person presiding. At least two of the other four shall be Fijians.

(b) Questions before the Board shall be decided by a majority of votes of those present and in the case of equality of votes the person presiding shall have a second or casting vote.

(5) The Board may from time to time make rules as to its own proceedings under this Act and the carrying out of the powers vested in the Board by this Act.

(6) The Board shall be a body corporate with perpetual succession and a common seal and may, in such name, sue and be sued, borrow money and enter into contracts, and may acquire, purchase, take, hold and enjoy real and personal property of every description and may convey, assign, surrender and yield up, charge, mortgage, transfer or otherwise dispose of or deal with or in real or personal property vested in the Board on such terms as the Board thinks fit.

(7) The common seal shall be affixed in pursuance of a resolution of the Board by one member of the Board and the Secretary who shall attest the same.

(8) All courts of law and persons acting judicially shall take judicial notice of the common seal of the Board when affixed to any document and shall presume that it was duly affixed.
(Section amended by Ordinance 16 of 1943, s. 2; 30 of 1945, s. 3; 29 of 1948, s. 2; 11 of 1959, s. 2; 19 of 1968 s. 3; Legal Notice 112 of 1970.)

PART II - CONTROL OF NATIVE LAND

Control of native land vested in Board

4.-(1) The control of all native land shall be vested in the Board and all such land shall be administered by the Board for the benefit of the Fijian owners.

(2) The Minister may, by notice in the Gazette, appoint for any Division specified in such notice a local committee consisting of the Commissioner as chairman and such other persons as the Minister may select, for the purpose of advising the Board on any matters affecting native land within such Division.

(Amended by Legal Notice 112 of 1970.)

(3) The Commissioner shall report the recommendations of the committee to the Secretary for the consideration of the Board.

(Amended by Ordinance 30 of 1945, s. 5.)

Native land alienable only to Crown

5.-(1) Native land shall not be alienated by Fijian owners whether by sale, grant, transfer or exchange except to the Crown, and shall not be charged or encumbered by native owners, and any native Fijian to whom any land has been transferred heretofore by virtue of a native grant shall not transfer such land or any estate or interest therein or charge or encumber the same without the consent of the Board.

(2) All instruments purporting to transfer, charge or encumber any native land or any estate or interest therein to which the consent of the Board has not been first given shall be null and void.

Provisions as to transfer of native lands

6. When any native land has been transferred to or acquired by the Crown a certificate shall be executed in such a form as may be prescribed. Such certificate shall contain a diagram of the land to be comprised therein on such scale as may be prescribed and shall be executed by the Board under seal on behalf of the native owners and by the Director of Lands on behalf of the Crown. A record of such transfer shall be made in the "Register of Native Lands" kept under the provisions of section **8** of the Native Lands Act.

(Cap. 133.) (Amended by Ordinance 15 of 1945, s. 44.)

Native land not to be alienated save in accordance with Act

7. Subject to the provisions of the Crown Acquisition of Lands Act, the Forest Act, the Petroleum (Exploration and Exploitation) Act and the Mining Act, no native land shall be sold, leased or otherwise disposed of and no licence in respect of native land shall be granted save under and in accordance with the provisions of this Act.

(Cap. 135, Cap. 150, Cap. 148, Cap. 146.)

Alienation of native land by lease or licence

8. (1) Subject to the provisions of section **9**, it shall be lawful for the Board to grant leases or licences of portions of native land not included in a native reserve for such purposes and subject to such terms and conditions as to renewals or otherwise as may be prescribed.

(2) Any lease of or licence in respect of land under the provisions of this Act shall be made out from and in the name of the Board and such lease or licence shall be executed under the seal of the Board.

(Substituted by Ordinance 30 of 1945, s. 6.)

Conditions to be observed prior to land being dealt with by way of lease or licence

9. No native land shall be dealt with by way of lease or licence under the provisions of this Act unless the Board is satisfied that the land proposed to be made the subject of such lease or licence is not being beneficially occupied by the Fijian owners, and is not likely during the currency of such lease or licence to be required by the Fijian owners for their use, maintenance or support.

Form of lease, registration and fees

10. -(1) All leases of native land shall be in such form and subject to such conditions and covenants as may be prescribed, and such leases shall be recorded in a register to be kept by the Registrar of Titles entitled "Register of Native Leases", and it shall be lawful for the Board to charge and collect in respect of the preparation of any lease or for any matter in connection therewith such fees as may be prescribed.

(Amended by Ordinance 30 of 1945, s. 7.)

(2) When a lease made under the provisions of this Act has been registered it shall be subject to the provisions of the Land Transfer Act, so far as the same are not inconsistent with this Act, in the same manner as if such lease has been made under that Act, and shall be dealt with in a like manner as a lease so made.*(Cap. 131.)*

(3) It shall be lawful for the Registrar of Titles to charge and collect in respect of any lease registered under the provisions of this Act, or in respect of any dealing with such lease, the fees prescribed under the Land Transfer Act in the same manner as if such lease was a lease under that Act.

(Cap. 131.)

Form of licence, registration and fees

11. All licences of native land shall be in such form as may be prescribed, and such licences shall be recorded in a register to be kept by the Board entitled "Register of Licences in respect of Native Land", and it shall be lawful for the Board to charge and collect in respect of the preparation and registration of any licence and for any matter in connection therewith such fees as may be prescribed.

(Amended by Ordinance 30 of 1945, s. 7.)

Consent of Board required to any dealings with lease

12. -(1) Except as may be otherwise provided by regulations made hereunder, it shall not be lawful for any lessee under this Act to alienate or deal with the land comprised in his lease or any part thereof, whether by sale, transfer or sublease or in any other manner whatsoever without the consent of the Board as lessor or head lessor first had and obtained. The granting or withholding of consent shall be in the absolute discretion of the Board, and any sale, transfer, sublease or other unlawful alienation or dealing effected without such consent shall be null and void:

Provided that nothing in this section shall make it unlawful for the lessee of a residential or commercial lease granted before 29 September 1948 to mortgage such lease.

(Substituted by Ordinance 30 of 1945, s. 8; amended by 29 of 1948, s. 3.)

(2) For the purposes of this section "lease" includes a sublease and "lessee" includes a sublessee.

(Inserted by Ordinance 35 of 1943, s. 2.)

Rent or fee in arrear in respect of licences

13. If any rent, fee or other charge payable under any licence granted under this Act is in arrear for the space of one calendar month, or in case default is made in the fulfilment of any other covenant or condition whether expressed or implied in such licence on the part of the licensee, and continues for the space of two calendar months, it shall be lawful for the Board to determine such licence without prejudice to any claim against the licensee which shall have already accrued under such licence.

Distribution of rents and purchase money

14. -(1) Subject to the other provisions of this section, rents and premiums received in respect of leases or licences in respect of native land shall be subject to a deduction of such amount as the Board may from time to time determine not exceeding 25 per cent of such rent or premium, which shall be payable to the Board as and for the expenses of collection and administration, and the balance thereof shall be distributed in the manner prescribed.

(2) Subject to the other provisions of this section, the purchase money received in respect of a sale or other disposition of native land, shall, after deduction therefrom of any expenses incurred by the Board in respect of such sale or other disposition, be either distributed in the manner prescribed or invested and the proceeds so distributed as the Board may decide.

(3) Before any balance shall be distributed pursuant to the provisions of subsections (1) and (2) the Board shall discharge out of the moneys received -

(a) any statutory obligation in relation to the land, which by reason of any order of a Court the Fijian owners have been adjudged liable to discharge and have failed to discharge;

(b) any payment which the Fijian owners, in consequence of such an order as aforesaid have become liable to make in respect of the land, whether by way of payment for works carried out by any statutory body or other competent authority, or otherwise;

(c) any amount due and unpaid in respect of any drainage rates payable under the provisions of the Drainage Act on the land or on any other native land belonging to the same native owners;

(Cap. 143.)

(d) Any amount due and unpaid in respect of any land rates payable by or under the provisions of the Fijian Affairs Act on the land or on any other native land belonging to the same Fijian owners;

(Cap. 120.)

(e) with the consent of the Fijian owners whether given before or after 4 December 1970 which consent shall operate as an assignment of rents irrevocable until the total amount is paid, any amount due and unpaid in connection with any scheme approved by the Minister for the benefit of the Fijian owners.

(4) In the event of the proceeds of any sale or other disposition of native land being insufficient to discharge in full all the obligations referred to in paragraphs (a) to (e) inclusive of subsection (3), the Board shall in so far as funds permit discharge that obligation which was incurred first and shall then discharge the remaining obligations in sequence according to the date they were incurred.

(5) Where there is any amount due and unpaid in respect of such drainage rates as are referred to in paragraph (c) of subsection (3) which the balance of the moneys received pursuant to subsection (1) is insufficient to discharge or the balance of the rents and premiums arising out of any native land belonging to the same Fijian owners is insufficient to discharge within three years, and the Fijian owners have any other native land which is available for leasing, the Board shall use its best endeavours to lease so much of any other native land belonging to the Fijian owners as it considers will be sufficient to enable such amount to be discharged within three years, or if that is not possible then within such longer period as may be required, being however the shortest possible period.

(6) The following provisions shall have effect with respect to a lease granted under subsection (5):-

(a) the provisions of section 9 shall not apply in relation to the granting thereof;

(b) notwithstanding anything contained in any other section of this Act -

(i) a lease may be granted with or without the consent of the Fijian owners, whether the land is inside or outside a native reserve;

(ii) a lease may be for such purposes and subject to such terms and conditions as the Board thinks fit;

(c) nothing in this section shall authorise the leasing of land in a native reserve except to a Fijian or to the Land Development Authority;

(d) subsections (1) and (3) shall apply to such a lease.

(7) Where there is any amount due and unpaid in respect of land rates referred to in paragraph (d) of subsection (3), the Board shall, at the request of the Fijian owners or upon the order of a competent court, use its best endeavours to lease so much of any native land belonging to such Fijian owners as it considers sufficient to enable such amount to be paid and discharged within the shortest possible period.

(8) With respect to a lease granted by the Board under the provisions of subsection (7), nothing in this section contained shall authorise the leasing of land in a native reserve except to a native Fijian or to the Land Development Authority:

Provided that the Board may always, with the consent of the Fijian owners of such land; exclude the land from the reserve in accordance with the provisions of section 17.

(Section substituted by Ordinance 30 of 1945, s. 9; amended by 13 of 1951, s. 2; 21 of 1961, s. 3; 58 of 1962, s. 3; 11 of 1966, s. 2; 16 of 1970, s. 2.)

PART III-NATIVE RESERVES

Native reserves

15.-(1) It shall be lawful for the Board, by notice in the Gazette, to set aside any portion of native land as a native reserve.

(2) Every such notice in the Gazette shall also be published in a newspaper published in the Fijian language and circulating in Fiji.

(Substituted by Ordinance 19 of 1968, s. 4; Subsec. (1) amended by Legal Notice 112 of 1970; Subsec. (2) amended by Act 1 of 1978, s. 2.)

Land in native reserve not to be alienated

16.-(1) Subject to the provisions of the Crown Acquisition of Lands Act, the Forest Act, the Petroleum (Exploration and Exploitation) Act, the Mining Act, and to the provisions of this section, no land in any native reserve shall be leased or otherwise disposed of.

(Cap. 135, Cap. 150, Cap. 148, Cap. 146.)

(2) Leases or licences may with the consent of the native owners be granted by the Board to native Fijians in accordance with regulations made under section **33**.

(3) Leases may with the consent of the Fijian owners be granted by the Board to the Land Development Authority as if it were a native Fijian, in accordance with the aforesaid regulations and subject to the following conditions:-

(a) no land leased under this subsection shall be transferred, sublet or in any other manner disposed of by the Land Development Authority except to a native Fijian;

(b) no lease shall be granted under the provisions of this subsection in respect of any land which is in use by, or required by, or likely to be required by the Fijian owners or any member of the land owning unit or dependant of such member during the currency of the lease for the use, maintenance or support of members of the land owning unit or to enable it or its members to fulfil obligations under native custom or under any regulations made under the Fijian Affairs Act;

(Cap. 120.)

(c) whenever the consent of Fijian owners is necessary under this or any other section of this Act, such consent shall be obtained by the Board in such manner and after such consultation with the Fijian owners, and shall be signified by the Fijian owners in such manner, as may be prescribed by regulations made under section **33**, or in default of any such regulations as the Board may consider appropriate.

(Substituted by Ordinance 58 of 1962, s. 4.)

Exclusion of land from native reserve with consent of native owners

17.-(1) The Board may, upon good cause being shown and with the consent of the native owners of the land, exclude either permanently or for a specified period any portion of land from any native reserve.

(Substituted by Ordinance 19 of 1968, s. 5.)

(2) Every such exclusion as aforesaid shall be published in the Gazette and in a newspaper published in the Fijian language and circulating in Fiji.

(Substituted by Ordinance 19 of 1968, s. 5; amended by Act 1 of 1978, s. 2.)

(3) When any native land has been excluded from a native reserve for a specified period such land shall upon the expiration of such period resume the same character and incidents as were attached to it before its exclusion from the native reserve.

Power of Governor-General to set aside land as native reserve

18.-(1) If the Governor-General is satisfied that the land belonging to any mataqali is insufficient for the use, maintenance or support of its members it shall be lawful for the Governor-General by proclamation to set aside such Crown land, or land acquired for or on behalf of Fijians by purchase, as in his opinion may be required for the use, maintenance or support of such mataqali. Any area so set aside shall be deemed to be a native reserve.

(Amended by Ordinance 29 of 1948, s. 4; Legal Notice 112 of 1970.)

(2) Any land set aside under the provisions of subsection (1) shall be fully described in the proclamation by stating the boundaries and area thereof and the name of the mataqali or other division or subdivision of the natives for whose use, maintenance or support such land is set aside, and such proclamation shall be published in the Gazette and in a newspaper published in the Fijian language and circulating in Fiji.

(Amended by Act 1 of 1978, s. 2.)

PART IV-MISCELLANEOUS

Crown ultimus haeres of extinct mataqali

19.-(1) If any mataqali shall cease to exist by the extinction of its members its land shall fall to the Crown as *ultimus haeres* to be allotted to the qali of which it was a part or other division of the people which may apply for the same or to be retained by the Crown or dealt with otherwise upon such terms as the Board may deem expedient.

(2) A report to the Board under the hand of the Chairman of the Native Lands Commission appointed under the Native Lands Act or of the Commissioner that a mataqali has ceased to exist by the extinction of its members and describing the lands which in consequence of such extinction fall to the Crown under subsection (1) shall be evidence that the mataqali is extinct.

(Cap. 133.)

(3) At any time after a report referred to in subsection (2) has been received the Board shall direct a notice in the form prescribed to be published in the Gazette and in a newspaper published in the Fijian language and circulating in Fiji, and a copy of such notice shall be sent as soon as possible by the Board through the Commissioner to the roko tui of the province in which any part of the land is situated.

(Amended by Act 1 of 1978, ss. 2 and 3.)

(4) If any person desires to show that the mataqali has not ceased to exist by reason of the extinction of its members, he may, within three months of the date of publication of the notice in the Gazette and in a newspaper published in the Fijian language and circulating in Fiji, give notice of objection in writing to the Board setting out particulars of any members of the mataqali alleged to be still surviving. Upon receipt of such notice of objection the Board shall cause such investigation to be made as it may consider necessary.

(Amended by Act 1 of 1978, s. 2.)

(5) If the Board after such investigation is of the opinion that the objection to declaring the mataqali extinct is not well founded, the Board shall cause the Commissioner to send notice by post to the person who has given notice of objection in writing and also to the roko tui of the province in which any part of the land is situated informing them that the objection is disallowed.

(Amended by Act 1 of 1978, s. 3.)

(6) If no notice of objection as provided for in subsection (4) is received by the Board, or if such objection having been duly made is disallowed, the Board may make an order in the form prescribed and such order shall on presentation to the Registrar of Titles be filed by him and the land shall be deemed to be Crown land for all purposes.

Powers of entry of Minister on native land for execution of certain works

20.-(1) Any Minister subject to the provisions of subsection (2) may at any time-

(a) enter upon any native land, and take therefrom stone and other materials for the making or repairing of roads, railways, canals, water channels, or other public works whether of the like kind or not;

(b) enter upon such land for the purpose of setting up poles and carrying electric, telegraph or telephone lines across such land, and laying sewers, water pipes, electric, telegraph or telephone lines therein, and for maintaining or affording access to any such works and to any other works of a public nature;

(c) enter upon such land and there do any work which he may consider necessary for maintaining or improving the flow of water in any river, stream, spring, lake or swamp and for that purpose may construct dams and divert any river, stream, spring, lake or swamp;

(d) by writing under his hand authorise officers in the service of the Government of Fiji, and of any local authority duly established by any Act in force in Fiji and any contractors employed by such officers, to exercise any of the powers conferred upon a Minister by this section. Any authority granted under the provisions of this paragraph shall be deemed to include the assistants, servants or agents of the officers or contractors to whom such authority is granted.

(Amended by Legal Notice 112 of 1970.)

(2) Compensation shall be payable in respect of anything done under this section for loss or disturbance and for the fair value of buildings and crops destroyed or damaged, and, in any case where the usefulness of any land for agricultural purposes is impaired by anything so done, compensation in respect thereof shall be payable and for this purpose the provisions of section 8 of the Constitution shall apply.

(Amended by Legal Notice 112 of 1970.)

(Cap. 1.)

[(3) * * * * * *(Repealed by Legal Notice 112 of 1970.)*]

[(4) * * * * * *(Repealed by Legal Notice 112 of 1970.)*]

Power to enter and inspect land and premises

21. Any member of the Board and any person acting under its directions or any servant of the Government shall for any purpose relating to this Act have power at all times to enter upon any native land or to enter any premises or place on such land and there to make such inspection, examination and inquiry and to call for such information as may be necessary for carrying into effect any of the provisions of this Act.

Service of process on Board

22.-(1) Service on the Board of all legal processes and notices shall be effected by service on the Secretary.

(2) Any costs incurred by or damages awarded against the Board in connection with any legal proceedings shall be paid out of the funds of the Board.

(Section amended by Ordinance 30 of 1945, s. 11.)

Proceedings to be brought in name of Board

23.-(1) All actions, suits and proceedings respecting native land or respecting any lease, licence or permit relating thereto, or respecting the breach of any covenant contained in any such lease, licence or permit or respecting any trespass on such land, or any damages accruing by reason of such trespass or for the recovery of any rents or fees, or relating to any damage or wrong whatsoever in respect of such land, may be commenced, prosecuted and carried on in the name and title of the Board.

(2) In any such action, suit or proceeding the Board may be represented by any barrister and solicitor or by any officer or servant of the Board duly authorised in that behalf.

(Amended by Ordinance 30 of 1945, s. 12.)

Service of notices, etc.

24.-(1) Any application, statement, demand, instrument, notice or other document authorised or required by this Act, or any regulation made thereunder, may be served on the person to whom it

is to be given either personally or by leaving it for him at his last known place of abode or by sending it through the post in a registered letter addressed to him there.

(2) Where any such document is to be served on a person by being sent through the registered post it shall be deemed to have been served not later than the fourteenth day succeeding the day on which it was posted, and for proof of such service it shall be sufficient to prove that the letter containing the notice was properly addressed, registered and posted.

Publication of notices, etc.

25.-(1) Any order, notice or other document required by this Act, or any regulation made thereunder to be published, may, when no particular method is provided or indicated, be published, by affixing a copy in the Commissioner's office and in some other public or conspicuous place or situation in the area concerned, and, where it is deemed necessary, by publishing it in the Gazette.

(2) Such publication or affixing shall be deemed good and sufficient publication and notice to all persons concerned.

(3) Any person who, without lawful cause of excuse, tears, defaces, alters, injures or removes any notice so affixed, shall be guilty of an offence against this Act and shall be liable to a fine of \$20. (*Amended by Ordinance 2 of 1945, s. 126.*)

Penalty

26. Every omission or neglect to comply with and every act done, or attempted to be done, contrary to the provisions of this Act or of any regulation or order made thereunder, or in breach of the conditions and restrictions subject to or upon which any licence or permit has been issued, shall be deemed to be an offence against this Act, and for every such offence for which no penalty is specially provided the offender shall be liable to a fine of \$100 or to imprisonment for six months or to both such fine and imprisonment.
(*Amended by Ordinance 2 of 1945, s. 126.*)

Unlawful occupation of native land

27. Any person who is found to be in unlawful occupation of any native land shall be liable to immediate eviction and to a fine of \$100 or to imprisonment for six months or to both such fine and imprisonment.
(*Amended by Ordinance 2 of 1945, s. 126.*)

Obstruction of officers

28. Any person who refuses to permit any duly authorised officer or his representative to carry out any of the powers conferred by section **21**, or obstructs or hinders any such officer or his representative in the execution of his duty under this Act, or fails to give any required

information, or furnishes false information to such officer or to his representative, shall be guilty of an offence against this Act.

Penalty for false declaration

29. Any person who makes a false declaration in relation to any matter or thing required to be done by this Act or by any regulation made thereunder or who produces any false declaration or certificate, knowing the same to be false in any material particular, shall be guilty of an offence against this Act.

Appointment of officers

30. The Board may appoint a Manager, a Secretary and such other officers, inspectors, clerks and servants as may be necessary to carry out the provisions of this Act. The Manager shall be the senior executive officer of the Board and shall be responsible to the Board for carrying out of the Board's policy and instructions.

(Substituted by Ordinance 39 of 1945, s. 13; amended by 58 of 1962, s. 4.)

Cost of administration to be paid by the Board

31. The cost of the administration of this Act shall be paid out of the funds of the Board.

(Inserted by Ordinance 30 of 1945, s. 14.)

Proceedings not to be invalidated by reason of vacancy

32. No act or proceeding of the Board under this Act shall be invalidated in consequence of there being a vacancy in the number of the Board at the time of such act or proceeding.

(Inserted by Ordinance 58 of 1962, s. 5.)

Regulations

33. The Minister may make regulations not inconsistent with this Act prescribing all matters which are required or are permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and for prescribing the fees to be paid for any matter or thing done under this Act, and more particularly for all or any of the following purposes:-

(a) controlling the occupation and the use of native land;

(b) regulating the reconditioning of any native land and for such purposes prohibiting and regulating the occupation of any areas therein;

(c) regulating generally the conservation of any area of native land;

(d) regulating any matters relating to the tenure of land as between Fijians on native land;

(e) regulating the grant and form of leases in respect of native land and all matters relating thereto;

(f) regulating the issue of licences on native land in respect of-

(i) cattle grazing rights;

(ii) removal of timber, forest produce, sand, lime, and common stone;

(g) prescribing the form and term of licences and occupation permits and the conditions upon and subject to which such licences and permits may be issued;

(h) the production of trees and forest produce on land not within a reserved forest within the meaning of the Forest Act, and for regulating the felling or removal of all forest produce;

(Cap. 150.)

(i) the definition of boundaries and maintenance of boundary marks;

(j) surveys and plans;

(k) prescribing the manner in which certified copies of or certificates in respect of lost licences or permits may be issued and the fees therefor;

(l) prescribing the manner in which registers shall be kept;

(m) the forfeiture of unclaimed deposits.

(Amended by Ordinance 35 of 1943, s. 3; Legal Notice 112 of 1970.)

Crown rights

34. Save as is expressly provided in this Act, nothing herein contained shall affect prejudicially any right, power, privilege or exemption of the Crown.

Board may hold other property as trustee

34A. The Board may hold in its name as trustee any property, real or personal, for the benefit of Fijian owners whether such property shall have been acquired by purchase, lease or exchange.

(Inserted by Ordinance 19 of 1968, s. 6.)

Rotuma not within scope of Act

35. This Act shall not apply to Rotuma.

Saving

36. -(1) Any proclamation, order in council, notification, document, licence, lease, certificate, or authority issued, made, given or granted before 7 June 1940 under the Native Lands Ordinance 1905* or the Native Lands (Occupation) Ordinance 1933† shall continue in force as if it had been issued, made, given or granted under this Act.

** Partially repealed by this Act*

† Repealed by this Act.

(2) Every such lease or licence continued in force as aforesaid shall in all respects be subject to the provisions of this Act:

Provided that the provision of section **12** of this Act and of any regulations made hereunder shall not apply to any such lease granted for a term of nine hundred and ninety nine years.

(Inserted by Ordinance 16 of 1945, s. 2.)

Controlled by Ministry of Fijian Affairs

SUBSIDIARY LEGISLATION

CHAPTER 134

NATIVE LAND TRUST

SECTION 33 - NATIVE LAND (FOREST) REGULATIONS

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*Regulations 11 August 1943,
18 May 1948,
19 June 1951,
25 April 1953*

PART I-PRELIMINARY

Short title

1. These Regulations may be cited as the Native Land (Forest) Regulations Native Land Trust

Interpretation

2. In these Regulations, unless the context otherwise requires -

"Conservator" means the Conservator of Forests;

"converted timber" means wood which has been cut, sawn, hewn, split, shaped or fashioned into pieces intended for use for any purpose other than as fuel;

"exempted round timber" means round timber from a tree not included in class A, B, C or D of the First Schedule which has been exempted from the payment of royalty at the standard rate by or with the authority of the Conservator and is chargeable at a special low royalty rate with a view to encouraging its use;

"firewood" for the purpose of the assessment of royalty or other charge thereon under these Regulations, means timber suitable only for consumption as fuel, or timber lawfully cut for consumption as fuel and used, or, in the opinion of the forest officer levying the said royalty or other charge, intended to be used, for no other purpose;

"forest officer" means a forest officer appointed under the Forest Act;
(*Cap. 150.*)

"forest produce" includes timber, firewood, charcoal, gum, wood oil or bark;

"Form" means a form in the Third Schedule;

"pole" means any section cut from a tree, and having a girth of less than three feet at its larger end, which has not been further prepared for use than by removal of bark and projecting branches;

"round timber" means any section cut from a tree, and having a girth of not less than three feet at its larger end, which has not been prepared for use otherwise than by removal of bark and branches and either rough squaring or longitudinal division into not more than four pieces in order to facilitate transport or conversion;

"timber" includes trees when they have fallen or been felled and all wood whether cut up or fashioned or hollowed out for any purpose or not;

"tree" includes any root, stump, stem, branch, brushwood, palm, cane, climber and creeper.

PART II - TAKING OF FOREST PRODUCE

Licence to cut forest produce, etc.

3. Except as provided in regulation 17, no person shall, on native land-

(a) fell, cut, ring, lop, tap or injure by fire or otherwise any tree;

(b) cut, convert, manufacture, or burn to charcoal any timber; or

(c) cut, collect or remove any forest produce,

except under and in accordance with a licence in Form 1, 2 or 3, or of a licence in such other form as the Board may approve in any special circumstances or for any particular class produce. No licence thus issued shall be transferable.

Duration of licence

4. Licences in Form 1 shall be issued by the Board and may thereafter be renewed by the Conservator for any period not exceeding six months in each case and shall be subject to such conditions as the Board may consider it necessary either generally or specifically to impose.

Deposit

5.-(1) Before the issue of any licence the applicant therefore shall, if the Conservator or other officer duly appointed by the Board in that behalf shall so require, deposit with such officer such sums of money as such officer may require; and on default being made in payment at the prescribed time of any moneys due as royalty or otherwise in respect of such licence, the said officer may withdraw from the sum deposited as aforesaid the sum so due, and may order the licensee to re-deposit an equivalent sum within a period of not less than five days from receipt of such order and in the event of failure of the licensee to comply with such order may cancel the licence.

(2) Should a licensee hold more than one licence any money deposited in his name for the purposes referred to in paragraph (1) shall be deemed to have been deposited in respect of all such licences and any portion of it may be withdrawn to meet any liability incurred under any or all of such licences.

Sub-licence

6. When a holder of a licence in Form 1 employs workmen for the purposes of his licence, there may be issued, at the discretion of any officer empowered by the Board in that behalf, a sub-licence in Form 4 for every workman so employed. No such sub-licence shall be transferable or be for a period exceeding three months or shall remain in force after the determination of the licence under which it was issued.

Number of licences may be limited

7. The Board may, in its discretion, limit the number of licences to take forest produce within any area specified by it; and may cause to be sold by public auction or tender the right to cut or collect and remove forest produce under licence on and from any area specified by it, subject to such conditions as it may in each case impose.

Royalties

8.-(1) All forest produce cut, sawn, converted, collected or removed under a licence in Forms 1 or 2 shall be liable to royalty at the rate laid down in the royalty rate list in the Second Schedule:

Provided that-

(a) no royalty shall be payable on any such produce-

(i) which, not having been removed from the area to which the licence refers, may be declared by a forest officer empowered by the Conservator in that behalf to be unsaleable by reason of its quality and situation;

(ii) which has been taken under a licence issued to a member of a mataqali or other land-owning unit within land owned by that land-owning unit where it is stipulated in writing by the chief of the mataqali or other land-owning unit that royalty under the said licence may be waived;

(b) The Conservator or any forest officer empowered by him in that behalf may reduce or commute the royalty-

(i) on forest produce which on the report of a forest officer he may adjudge to be of inferior quality;

(ii) subject to the previous approval of the Board and for a period not exceeding one year, on any kind of produce the removal of which it appears to him desirable to expedite or which is so situated as to render its removal specially difficult or costly;

(iii) with the general or special approval of the Board on forest produce removed under a licence in Form 1 in consideration of a monthly payment by the licensee of a premium representing commuted royalty.

(2) Notwithstanding the provisions of paragraph (1), guava on native land in the province of Tailevu shall not be liable to royalty.

(Inserted by Regulations 25 April 1953.)

Restriction on issue of licence to cut or collect produce

9. Licences in Forms 2 and 3 to cut or collect and remove any class of forest produce may not be issued in respect of any area over which a licence in any other form for the same class of produce is in force.

Licences to cut or collect, etc., any produce

10. Except as provided in regulation 9, licences in Form 3 may be issued by or under the authority of the Conservator to cut, manufacture or collect and remove any forest produce for any period not exceeding six months on payment of a monthly fee at the rate laid down in the royalty rate list in the Second Schedule, or such lower rates as the Conservator may from time to time in special circumstances authorise. Every such licence shall be personal to its holder and shall not extend to any person employed by him.

Licence to cut and collect fixed quantity of produce

11. Except as provided in regulation 9, licences in Form 2 may be issued by or under the authority of the Conservator to cut or collect and remove a fixed quantity of any forest produce on prepayment of royalty at the rate or rates laid down by or in accordance with regulation 8.

Restriction on size of trees to be cut

12. Except with the authorisation of the Conservator no person shall fell on native land any tree specified in class A, B, C or D of the First Schedule having a girth less than the minimum prescribed in that Schedule nor shall he convert into firewood or charcoal any part of any tree so specified that in the opinion of a forest officer is suitable for conversion into saleable timber.

Payment of royalty

13. Royalty accrued due under these Regulations shall be payable at such times and place and in such manner as may be specified in the licence, or if no time, place or manner of payment be so specified then on demand made by any forest officer.

List of persons engaged in cutting to be posted

14. The person in charge of every body of persons living or working together in any occupation having for its object the cutting or removal of timber or forest produce under a licence issued under these Regulations shall cause a working board containing a full and correct list of all persons so employed or engaged, to be exhibited in a conspicuous place in the main entrance to the house or workshed, and every person whose name is contained in the said list shall be provided with a licence or sub-licence.

Firewood

15. Head-loads of firewood may be collected from dead or fallen trees on native land and removed without licence:

Provided that if they are collected in or removed to any place hereafter notified in the Gazette a licence shall be taken out and royalty shall be payable at the rates for the time being prescribed for such produce.

Board may restrict cutting

16. The Board may for any reason, without prejudice to existing rights, prohibit or restrict the cutting or removal of any forest produce by any particular person or class of persons within any specified area of native land for such time as it may deem necessary.

Saving

17.-(1) Subject to the succeeding paragraphs, nothing in these Regulations shall be deemed to affect any native fishing and hunting rights established by native custom or to prohibit the cutting and removal from native land by any Fijian of any timber, reeds or other forest produce,

which may be necessary for the construction or repair of a dwelling-house for the permanent abode of himself and his family, for the construction of temporary huts on any land lawfully occupied by him, for the upkeep of his fishing stakes and landing places, for firewood to be consumed for domestic purposes or for the construction and upkeep of any work for the common benefit of the native inhabitants of his village.

(2) Except with the general or special permission of the Conservator no person shall be permitted under paragraph (1) to cut or remove any form of forest produce in a locality outside the district in which he ordinarily resides, nor may any tree specified in class A, B, C or D of the First Schedule be felled under the aforesaid paragraph solely for removal of its bark or felled or converted in contravention of the limitations prescribed by regulation 12.

(3) Subject to the limitation in paragraph (2), forest produce for the purposes stated in paragraph (1) may be taken free by individuals for their own use or for the use of others entitled to the same privilege:

Provided that where free and voluntary assistance is not available there may be issued at the discretion of a forest officer empowered by the Conservator in that behalf a free permit authorising the employment of paid labour for the cutting and collection of such produce. Forest produce cut and removed by a person licensed under regulation 3 is subject to royalty except as provided for in sub-paragraph (a) of paragraph (1) of regulation 8.

PART III -GENERAL

Penalty

18. Any person who commits a breach of these Regulations shall be liable to a fine of \$100 or to imprisonment for six months or to both such fine and imprisonment.

Licence to be carried

19. The person named in any licence or sub-licence issued under these Regulations shall keep the same upon his person while at work, and at other times have it in his possession or at his workshed or his usual place of residence.

Control of forest produce in transit

20. All forest produce cut or collected under licence in Form 1 shall, as soon as it reaches a public thoroughfare or is removed beyond the boundaries of the area to which the licence refers, be subject to such regulations for the control of forest produce in transit as may from time to time be imposed under the Forest Act or any Act replacing the same.

(Cap. 150.)

Distribution of royalties

21. Ten per cent shall be deducted as and for the expenses of collection and administration from all sums of money received as royalties on forest produce taken under licence in Form 1 on native land and shall be paid into the Consolidated Fund. The balance of royalty remaining shall be paid through the Commissioner of the Division to the appropriate Fijian authority for distribution by him:

Provided that in the case of royalties not exceeding the sum of \$2 on forest produce taken under licence in Form 2 or 3 the whole amount, without deduction, shall be paid, on behalf of the mataqali or other land-owning unit who shall sign an acknowledgment in the appropriate place on the licence.

FIRST SCHEDULE

(Regulation 12)

TREES PROTECTED UNDER REGULATION 12

Preferred name	Alternative name	Minimum felling girth
Yaka.....	CLASS A. -	4 1/2 feet
Bauka.....	CLASS B. -	4 1/2 feet
Bausomi.....	-	4 1/2 feet
Boca.....	-	4 1/2 feet
Buabua.....	-	4 1/2 feet (1/2 feet)*
Dabi.....	Legilegi.....	
Rosarosa.....	Drugadruga, Moivi, Rogi, Savai, Savairabuludamu, Vaudamu	5 feet
Rosawa.....	-	5 feet
Sagali.....	-	3 feet
Vesi.....	-	6 feet
Vesida.....	-	6 feet
	CLASS C	
Amunu.....	Kausolo, Dautabua.....	4 1/2 feet
Bauvudi.....	-	4 1/2 feet
Cevua.....	-	1 1/2 feet (3 feet)*
Dakua Makadre	-	6 feet
Dakua Salusalu.....	-	6 feet
Damanu.....	-	4 1/2 feet
Dilo.....	-	6 feet
Sacau.....	-	4 1/2 feet
Vaivai.....	-	4 1/2 feet

Vuga.....	-	4 1/2 feet
Yaro.....	-	1 1/2 feet
Yasiyasi.....	Yasidamu, Yasidravu, Yasivula.....	4 1/2 feet
CLASS D.		
Cibicibi.....	-	4 1/2 feet
Dawa.....	-	4 1/2 feet
Dogo.....	-	1 1/2 feet
Doi.....	-	3 feet
Kaudamu.....	Male, Vavaloa.....	4 1/2 feet
Kaudaro.....		4 1/2 feet
Kaunicina.....	Didi, Yagai.....	4 1/2 feet
Kauvula.....	Lekutu, Vulavula.....	4 1/2 feet
Kuasi.....	Baukiwaqa, Kasi.....	4 1/2 feet
Laubu.....	-	3 feet
Masiratu.....	-	4 1/2 feet
Mavota.....	-	4 1/2 feet
Nokonoko.....	Qaro, Nakure.....	3 feet
Tarawau.....	-	4 1/2 feet
Vetau.....	-	4 1/2 feet

*In Vanua Levu the figure in brackets shall apply

Note-The minimum felling girth will be measured at 4 ft. 6 in. above the ground on the side of the tree where the ground is highest or, in the case of trees buttressed above this height, immediately above the buttresses.

SECOND SCHEDULE

(Regulation 8)

(Substituted by Regulations 18 May 1948; amended by Regulations 19 June 1951.)

ROYALTY RATE LIST

	Royalty \$ c
1. Timbers per 100 superficial feet-	
(a) Timbers from tree of Class A in the First Schedule-	
Converted.....	.50

Round.....	.25
(b) Timbers from trees of Class B in the First Schedule- Converted.....	.30
Round.....	.15
(c) Timbers from trees of Class C in the First Schedule- Converted.....	.25
Round.....	.12
(d) Timbers from trees of Class D in the First Schedule- Converted.....	.15
Round.....	.08
(e) Other timbers (except Sandalwood)- Converted.....	.10
Round.....	.05
Exempted Round Timber.....	.03
2. Poles per 100 linear feet-	
(a) Buabua- all sizes.....	.50
(b) Sagali- all sizes.....	.40
(c) Any species other than Bamboo, Sagali and Buabua- Girth 2 ft. but less than 3 ft. at the base.....	.30
Girth 1 ft. but less than 2 ft. at the base.....	.25
Girth 4 in. but less than 1 ft. at the base.....	.15
Girth under 4 in. at the base.....	.05
3. Firewood-	
(a) Mangrove per 50 cubic feet stacked.....	.15
(b) Other species per 50 cubic feet stacked.....	.10
(c) Monthly licence for domestic firewood supply per household.....	.10
4. Charcoal per sack of not more than 100 lb.....	.05
5. On all forest produce not already specified in this Schedule there shall be charged royalty and fee at the rate of 5 per cent respectively of the scale value calculated in accordance with the rates of sale value for such produce notified from time to time in the GAZETTE.	

THIRD SCHEDULE

FORM 1

(Regulation 3)

LICENCE TO TAKE FOREST PRODUCE ON LEDGER ACCOUNT
(Not transferable)

Issued under the Native Land (Forest) Regulations

No. of licence:

This licence authorises.....of.....to take within the area described below and delineated by a red outline on the attached plan subject to the following conditions and to the provisions of the Native Land (Forest) Regulations.

District.....Mataqali.....Lot No.....N.L.C. Sheet No.....

CONDITIONS

1. Minimum labour force ofmen to be employed.
2. Produce to be taken for measurement and check to:
3. Royalty to be paid at monthly before the day of the month.
4. Boundaries of the area and of such sub-divisions of it as the Divisional Forest Officer may deem necessary to be demarcated and kept clear by the licensee; and work to be confined to such sub-divisions as the Divisional Forest Officer may from time to time lay down.

Date of issue:..... Date of first expiration:

The Common Seal of the Native Land Trust Board
was hereunto affixed in pursuance of a resolution of
the Board by and in the Presence of:-
Member of the Board
Secretary

[Regulation 11, 16, 17 and 18 are to be printed at the back of this licence.]

FORM 2

(Regulations 3 and 11)

LICENCE TO TAKE FOREST PRODUCE ON PREPAYMENT OF ROYALTY (Not transferable)

Issued under the Native Land (Forest) Regulations No. of licence:

No. of licence:

This licence authorises of to take within the locality hereunder specified such forest produce as is hereunder specified and on which royalty has been prepaid.

Kind of produce Royalty rate Amount received District
..... Mataqali Lot No.

N.L.C. Sheet No.....

Date of issue: Date of expiration:

Forest Officer

[Regulations 12, 18, 19, and 20 are to be printed at the back of this licence.]

FORM 3

(Regulations 3 and 10)

**LICENCE TO TAKE FOREST PRODUCE ON PAYMENT OF A MONTHLY
FEE**

(Not transferable)

Issued under the Native Land (Forest) Regulations

No. of licence:

This licence authorises of to take within the locality hereunder specified
such forest produce as is hereunder described during a period of months from the date
hereof subject to the provisions of the Native Land (Forest) Regulations.

District Mataqali Lot No.

N.L.C. Sheet No.

Date of issue: Date of expiration:

Forest Officer

[Regulations 12, 18 and 19 are to be printed at the back of this licence.]

FORM 4

(Regulation 6)

SUB-LICENCE UNDER LICENCE No.

(Not transferable)

No. of sub-licence:

This sub-licence authorises of to take, as agent of the holder of Licence No. and subject to the terms thereof, such forest produce as is described in the said licence.

Issued free.

Date of issue *Date of expiration:

Forest Officer

* Not more than three months after the date of issue

CHAPTER 134

NATIVE LAND TRUST

SECTION 33 - NATIVE LAND TRUST (LEASES AND LICENCES) REGULATIONS

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SCHEDULES

First Schedule-Definition of Improvements

Second Schedule-Form of Leases

Third Schedule-Scale of Fees

Fourth Schedule-Provision of Native Land (Leases and Licences)

Regulation saved

Legal Notice No. 98 of 1984

Short title

1. These Regulations may be cited as the Native Land Trust (Leases and Licences) Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires, "improvements" includes any of the items specified in the First Schedule.

Manner in which leases may be granted

3. The grant of leases of native land may be effected by the Board by way of private treaty, public auction or public tender.

Purposes for which, and terms, conditions and covenants subject to which, leases may be granted

4. Native land may be leased by the Board for such purposes as it deems proper and subject to such terms as to rent, premium or otherwise and to such conditions and covenants as the Board shall determine, being terms, conditions and covenants which are not inconsistent with any of the provisions of these Regulations.

Form of leases

5. Every lease of native land shall be in the form set out in the Second Schedule.

Maximum term of leases

6. A lease of native land may be granted for such term as the Board shall determine, but shall not in any case exceed ninety-nine years.

Fees

7. The fees prescribed in the Third Schedule shall be payable to the Board in respect of the matters specified therein.

Consent of the Board to dealings with demised land, etc.

8.-(1) An application for the consent of the Board under section 12 of the Act to deal with any native land shall be in such a form and shall be accompanied by such information and evidence as the Board shall determine.

(2) The Board may attach to the grant of such consent a condition requiring that the instrument giving effect to the dealing consented to by the Board shall be executed, or executed and registered in such register as the Board shall direct, within the three months commencing on the date on which the consent was granted or such longer period commencing on that date as the Board shall determine; and in the event of such a condition not being complied with, the consent of the Board shall be deemed to be null and void.

(3) The Board may, on application being made to it for such consent, require the payment of such deposit as it deems proper, in addition to any fee payable under regulation 7 in respect of the application; and such deposit shall be refunded to the applicant by the Board-

(a) where such consent is refused by the Board; or

(b) where such consent is granted by the Board and the Board is satisfied, on information supplied to it by the applicant within such period as the Board shall determine, that the instrument giving effect to the dealing consented to has been executed, or executed and registered, in accordance with paragraph (2), or that the dealing consented to will not be completed.

Dealings with land in a native reserve

9.-(1) Land in a native reserve held under or by virtue of a lease, agreement for a lease or tenancy at will, or any part of such land, shall not be transferred, mortgaged, assigned, sublet, licensed or in any other manner whatsoever dealt with or passed to any person other than a native Fijian; and any purported or attempted transfer, mortgage, assignment, sublease, licence or other dealing which is in contravention of this paragraph shall be null and void.

(2) Notwithstanding the generality of paragraph (1), the Board may, by resolution published in the *Fiji Royal Gazette*, authorise the appointment of person who is not a native Fijian to deal in

land in a native reserve leased to a native Fijian, subject to the following conditions, that is to say, that-

- (a) before authorising such appointment, the Board shall satisfy itself that the appointment will be to the benefit of native Fijians;
- (b) the appointment shall be made in writing by the Board and shall subsist only for a period specified in the instrument of appointment;
- (c) the Board may, in its absolute discretion, renew the appointment for a further period or periods; and
- (d) the Board may at any time rescind the appointment without cause being shown.

Licences

10. The Board may, by licence, grant such rights in, on, under or over native land, for such purposes and subject to such terms, conditions and covenants as the Board shall determine.

Distribution of balance of rents and purchase-monies

11.-(1) After deduction of any sums in accordance with section **14** of the Act, the balance of any monies received by the Board by way of rents and premiums in respect of native land shall be distributed by the Board as follows:-

- (a) to the proprietary unit, seventy per cent;
- (b) to the turaga ni mataqali, fifteen per cent;
- (c) to the turaga ni yavusa, ten percent; and
- (d) to the turaga i taukei, five per cent.

(2) Where the Board has determined that any purchase monies received in respect of the sale or other disposition of native land shall be distributed, after the deduction therefrom of any expenses incurred by the Board in respect of such sale or other disposition, the balance thereof shall be distributed in accordance with paragraph (1).

(3) Where there is more than one division or subdivision of the people within the same proprietary unit, the turaga of the same status shall share equally the sum payable to them under paragraph (1) irrespective of whether or not any other sum is payable to any of them under that paragraph in their capacity as turaga of any other division or subdivision within such proprietary unit.

Agreements for leases granted subjected to this regulation

12.-(1) Where the Board has approved that grant of a lease of native land to any person subject to this regulation, the Board shall cause to be served on that person for execution by him an agreement for the lease of that land, in duplicate, together with a notice in writing stating that the Board has approved the grant of the lease subject to this regulation and requiring that person, before the date specified in the notice in that behalf-

(a) to execute both copies of the agreement and to return one copy thereof to the Board, duly executed; and

(b) to pay to the Board all monies due and payable by that person on or before that date under and in respect of the agreement, whether by way of premium, rent, fees, stamp duty or otherwise.

(2) No tenancy of native land shall be taken to subsist by virtue of any notice served in pursuance of paragraph (1) unless and until all the requirements of the notice as are mentioned in paragraphs (a) and (b) of that paragraph have been complied with, notwithstanding that any person has entered into possession of that land, with or without the consent of the Board, and notwithstanding that any rent shall have been received by the Board in respect of that land.

(3) An agreement for a lease of native land served on any person in pursuance of paragraph (1) shall set out in full the terms, conditions and covenants subject to which the land is to be demised and shall contain-

(a) a description of the land, whether by reference to a plan or otherwise;

(b) a condition to the effect that if that person shall not, within three months of being required to do so by notice in writing served on him by the Board-

(i) engage the services of a surveyor registered under the Surveyors Act to carry out a survey of that land and to prepare a survey plan in accordance with the regulations made under that Act; and

(ii) produce to the Board evidence satisfactory to the Board that the services of such a surveyor have been so engaged by him;

the agreement shall cease to have effect; and

(c) a condition to the effect that if that person fails or refuses to execute the lease which he has agreed to take pursuant to the agreement within three months of being required to do so by notice in writing served on him by the Board, the agreement shall cease to have effect.

(4) Without prejudice to any right of action or other remedy which the Board may have against any person on whom a notice has been served in pursuance of paragraph (1) in respect of any native land, where that person has failed or refused to comply with all the requirements of the notice as are mentioned in sub-paragraphs (a) and (b) of that paragraph or has failed to comply

with any of the conditions of the related agreement for the lease of that land as are mentioned in sub-paragraphs (b) and (c) of paragraph (3), then-

(a) if that person or any other person claiming through him has entered into possession of that land, the Board may re-enter into possession, and that person or that other person, as the case may be, shall be liable to pay compensation to the Board in respect of any loss suffered by the Board arising out of the possession of the land by him and in respect of any damage caused by his act or default or the act or default of his servants or agents in connection with such possession; and

(b) any monies paid to the Board by that person or any other person claiming through him in respect of that land by way of rent, premium, fees, stamp duty or otherwise shall be forfeited.

Re-assessment of rent

13.-(1) Subject to paragraph (8), the Board or a lessee of any native land may, by notice in writing served on the other party not earlier than one year and not later than three months before the appointed date, propose that the rent payable under the lease of that land from the appointed date shall be at such yearly rate as shall be specified in the notice (hereinafter referred to as a "notice of re-assessment").

(2) The party on whom a notice of re-assessment has been served in accordance with paragraph (1) may, by notice in writing (hereinafter referred to as a "counter-notice") served on the other party not later than the two months commencing on the date of the service of the notice of re-assessment, signify his intention to refer the question of the re-assessment of the rent for determination by arbitration in pursuance of regulation 21.

(3) If a counter-notice is not served in accordance with paragraph (2) or if a counter-notice is so served but no reference for determination by arbitration in pursuance of regulation 21 has been made within one month commencing on the date of the service of the counter-notice, the rent payable under the lease shall, as from the appointed date, be payable at the rate specified in the related notice of re-assessment, but without prejudice to a further re-assessment of the rent in accordance with this regulation.

(4) If a counter-notice is served in accordance with paragraph (2) and a reference for determination by arbitration in pursuance of regulation 21 as mentioned in paragraph (3) is made, then the parties shall, for the purposes of such arbitration, be taken to be in dispute as to the rent properly payable under the lease as from the appointed date:

Provided that this paragraph shall cease to have effect upon the parties agreeing the said rent.

(5) For the purposes of this regulation, the rent properly payable under a lease of native land shall be the annual rent at which that land might reasonably be expected to be let in the open market by a willing lessor to a willing lessee if the full term of the lease had yet to run, having regard to the terms, conditions and covenants contained in the lease (other than those relating to

rent) and assuming that the environment of the demised land is in all respects as it is or may reasonably be expected to be, at the appointed date, but disregarding-

(a) any effect on rent of the fact that the lessee is in occupation of the land; and,

(b) the current value of any unexhausted improvements on the land, other than those which have a value in relation to the purpose for which the land is demised and which-

(i) were executed during the term of a previous lease of the land at the expense of the lessee where the lessee, or the lessee under any subsequent lease, was not granted a new lease upon the expiration of that term; or

(ii) were executed by the Board; or

(iii) were in existence at the time the land was first leased.

(6) Where a notice of re-assessment (hereinafter referred to as "the first notice") is served on any party to a lease, any notice of re-assessment served by that party on the other party subsequently to the date on which the first notice was served and before the appointed date specified in the first notice shall be of no effect for the purposes of this regulation; and if notices of re-assessment are served by both parties on each other on the same date, only the notice of re-assessment served by the Board shall have effect for those purposes.

(7) In this regulation "the appointed date" means, in relation to any notice of re-assessment in respect of the rent payable under any lease, the date specified in the notice as the appointed date, being a date not earlier than five years from the later of-

(a) the date of the commencement of the term of the lease;

(b) the date as from which there last took effect a re-assessment made in pursuance of this regulation; and

(c) the date as from which there last took effect a previous direction of an arbitrator, that the rent should continue unchanged.

(8) This regulation shall not apply in relation to a lease in which it is specifically provided that this regulation shall not do so.

General provision as to conditions and covenants implied in a lease

14.-(1) The following conditions and covenants shall be implied in every lease of native land, that is to say-

(a) that the lessee shall pay all existing and future rates, taxes, assessments and outgoings now or hereafter imposed or charged upon the demised land or upon the owner or occupier in respect thereof;

(b) that the lessee-

(i) shall not, in connection with the demised land, do or permit or suffer to be done anything in contravention of any written law;

(ii) shall indemnify the Board against all claims, demands, expenses and liability in connection with the demised land, and shall pay the costs, charges and expenses incurred by the Board in abating a nuisance or for remedying any other matter in connection with the demised land in compliance with any requirement imposed by or under any written law;

(c) that the lessee shall not carry out any development on or in relation to the demised land, except with the consent in writing of the Board and except with any consent required by or under any written law in respect of any such development;

(d) that if and whenever during the term of the lease-

(i) any rent thereby reserved or made payable or any part thereof shall be in arrears and unpaid for one month next after becoming payable (whether formally demanded or not);

(ii) there shall be any breach, non-performance or non-observance of any of the covenants on the part of the lessee contained in the lease or implied in the lease by virtue of these Regulations;

(iii) the lessee, being an individual, shall become bankrupt or, being a company, enters into compulsory or voluntary liquidation (save for the purpose of amalgamation or reconstruction of a solvent company);

(iv) a receiver of the lessee shall be appointed or the lessee enter into any composition or arrangement with the lessee's creditors; or

(v) the lessee shall suffer any distress or execution to be levied on his goods;

then, and in any such case, it shall be lawful for the Board at any time thereafter, and notwithstanding the waiver by the Board of any previous right of re-entry, to re-enter into and upon the demised land or any part thereof in the name of the whole and thereupon the term of the lease shall absolutely cease and determine, but without prejudice to any rights or remedies which may have accrued to the Board against the lessee or to the lessee against the Board in respect of any antecedent breach of any of the covenants contained in the lease.

(2) For the purposes of sub-paragraph (c) of paragraph (1) "development", in relation to any demised land, includes-

(a) the carrying out of any building or engineering works designed to create, alter or add to, any improvements to the land; and

(b) any use of the land or of any improvements thereto which is different from the purpose from which the land was demised under the current lease.

Resumption of possession by the Board

15.-(1) It shall be implied in every lease of native land commencing on or after the commencement of these Regulations that where the land demised is required by the Board for development (whether by the Board or otherwise) involving any use of the land, in whole or in part, which is materially different from the purpose for which the land was demised and in respect of which permission has been granted under the Town Planning Act, the Board may terminate the lease and resume possession of the land on the 30th day of June or the 31st day of December in any year during the term of the lease by notice in writing served on the lessee not later than one year before the date on which the Board desires to resume possession of the land, without prejudice to the rights and remedies of either party against the other in respect of any antecedent claim or breach of covenant.

(2) If, on the termination of a lease of native land in pursuance of paragraph (1), the lessee shall have paid the rent thereby reserved and payable and shall have reasonably performed and observed the terms, conditions and covenants therein contained, the lessee shall be entitled to be paid by the Board by way of compensation-

(a) such sum as might reasonably be expected to be obtained in the open market by a willing seller from a willing purchaser in consideration for the transfer of the lease as at the date of resumption of possession by the Board and as if the notice referred to in paragraph (1) had not been served (any improvements to the land executed after the date of such notice being disregarded); and

(b) such sum as represents the total amount of the unavoidable other loss incurred by the lessee in consequence of the exercise by the Board of its powers under this regulation, including, in particular, but without prejudice to the generality of the foregoing-

(i) loss or expenses incurred by the lessee in respect of the removal or sale of his household goods, chattels or livestock on, or used in connection with, the demised land and in respect of his re-establishment in a comparable property in Fiji;

(ii) the loss of the goodwill suffered by any business carried on by the lessee from or on the land demised by reason of the transfer or closure of that business resulting from the lessee's quitting of the demised land; and

(iii) expenses incurred in respect of legal and other professional services in connection with the preparation of the lessee's claim for compensation hereunder (not being costs of any arbitration to determine any question arising under this regulation); and,

(c) the full amount of any compensation payable by the lessee to any sub-lessee of the demised land or any part thereof in pursuance of paragraph (3).

(3) Where a lease of native land has been terminated in pursuance of paragraph (1) and the demised land or any part thereof was at the date on which the lease was so terminated in the possession of a sub-lessee with the written consent of the Board, the lessee shall be liable to pay to the sub-lessee such sum as the Board would have been liable to pay to the sub-lessee under sub-paragraph (a) and (b) of paragraph (2) had the sub-lessee been the lessee of that land or that part thereof.

(4) The right of the Board to terminate a lease by virtue of the condition implied therein by paragraph (1) shall also be exercisable in respect of part only of the demised land as if any reference in the foregoing provisions of this regulation to the demised land included a reference to a part thereof; and in the event of such right being exercised in relation to part only of the demised land the lessee shall be entitled-

(a) to a reduction of the rent in such amount as shall be agreed by the parties or, should they fail to agree, by such amount as shall be settled by arbitration in pursuance of regulation 21; or

(b) subject to the provisions of paragraph (5), to surrender the remainder of the demised land, in which case the provisions of paragraphs (2) and (3) shall have effect as if such right as aforesaid had been exercised in relation to the whole of the demised land.

(5) Sub-paragraph (b) of paragraph (4) shall not apply where the Board has served notice to resume possession of part of any demised land in pursuance of that paragraph and that part of that land is less than one-quarter of the size of the whole of that land unless, by reason of the severance of that part, the remainder of the demised land is no longer suitable for the purpose for which it was demised to the lessee.

Extension of prescribed time limits

16. Where under these Regulations or under any lease, any notice is required to be served or other thing done within a certain period, the Board may, on application being made to it in that behalf before or after the expiration of that period, extend that period; and thereupon these Regulations or that lease, as the case may be, shall have effect as if the reference therein to that period were a reference to that period as so extended.

Extension of regulations 13, 14, 15 and 16 in relation to agreements for leases

17. The provisions of regulations 13, 14, 15 and 16 shall apply in relation to a person holding native land by virtue of an agreement for a lease (whether he is at law a tenant from year to year or otherwise, and whether or not the agreement is in equity equivalent to a lease) as if the references in those provisions-

- (a) to a lessee included a reference to such person;
- (b) to a lease included a reference to such agreement;
- (c) to the land demised included a reference to that native land;

and any other expression therein contained shall be construed accordingly.

Renewal of leases

18.-(1) This regulation shall apply in relation to a person holding native land under a lease for a term of fixed duration or by virtue of an agreement for a lease for such a term, whether such term commenced before or after the commencement of these Regulations, except where-

- (a) such term is for five years or less;
- (b) such land is land to which the Agricultural Landlord and Tenant Act applies;
- (c) such land is in a native reserve;
- (d) such land is for time being excluded from a native reserve under section **17** of the Act for a specified period which will expire before or at the expiry of such term;
- (e) such lease or agreement for a lease contains a stipulation as to the renewal of the lease and such term commenced before the commencement of these Regulations; or
- (f) that person and the Board have agreed in writing that this regulation shall not apply in relation to that person.

(2) Subject to paragraph (9) a person in relation to whom this regulation applies who desires to take a new lease of the land held by him as mentioned in paragraph (1) upon the expiration of the current term (that is to say, the term of the lease or the term agreed to be granted under the agreement for the lease by virtue of which he holds that land, as the case may be) shall, not earlier than two years and not later than one year before the expiration of the current term, serve on the Board a notice in writing of such his desire (hereinafter referred to as a "notice to renew").

(3) Subject to paragraph (4), where a notice to renew has been served on the Board by any person (hereinafter referred to as "the applicant") in accordance with paragraph (2) in relation to any native land, the Board shall-

- (a) grant a lease of the land to the applicant-
 - (i) for a further term which shall not be less than the current term but shall not exceed ninety-nine years;
 - (ii) for the same purpose as the purpose for which the land is presently held; and

(iii) subject to such terms as to rent, premium or otherwise and to such conditions and covenants as may be agreed between the parties, or as may be determined by arbitration under the provisions of paragraph (6), and as are not inconsistent with any of the provisions of these Regulations; or

(b) refuse to grant a lease of the land for a further term.

(4) Where any land in relation to which a notice to renew has been so served on the Board is land which is for the time being excluded from a native reserve under section 17 of the Act for a specified period, the Board shall not grant a lease of that land in pursuance of paragraph (3) for a further term extending beyond the date of expiry of that period.

(5) Subject to paragraph (9), where, upon the service on the Board of a notice to renew relating to any native land, the Board has decided to grant a lease of that land to the applicant for a further term in pursuance of paragraph (3), the Board shall, not less than six months before the expiry of the term in relation to, and during the currency of which, such notice was served on the Board, serve a notice in writing on the applicant intimating the decision of the Board and setting out in full the terms as to rent, premium or otherwise and the conditions and covenants subject to which the Board proposes that the new lease shall be granted.

(6) Within three months of the date on which a notice is served on him by the Board under paragraph (5), the applicant shall serve on the Board a notice in writing-

(a) accepting all the terms, conditions and covenants proposed by the Board; or

(b) requiring the Board to refer its proposals to arbitration under regulation 21.

(7) Where a notice is served on the Board under and in accordance with paragraph (6) requiring the Board to refer its proposals to arbitration under regulation 21, the Board shall refer the same to arbitration under that regulation within one month of the date on which the notice was so served.

(8) If, following the service on the Board of a notice to renew in relation to any land, the applicant-

(a) fails to serve a notice on the Board under and in accordance with paragraph (6); or

(b) fails or refuses to execute a lease incorporating the terms, conditions and covenants accepted by him by a notice served on the Board under paragraph (6) or determined by arbitration in pursuance of any requirements contained in such notice within three months of the date on which the lease is served on him by the Board;

then, the notice to renew shall be deemed to have been cancelled and the applicant shall yield up possession of that land to the Board together with any improvements thereto upon the expiry of the term in relation to, and during the currency of which, the notice to renew was served; and no

tenancy of that land shall be taken to subsist as between the Board and the applicant, or any person claiming through the applicant, following the expiry of such term notwithstanding that the applicant or any such person has remained or entered into possession of that land, with or without the consent of the Board, and notwithstanding that any rent shall have been received by the Board in respect of that land.

(9) Where, in any case to which this regulation applies, the term for which the land in such a case is demised or agreed to be demised, as the case may be, falls to expire within eighteen months after the commencement of these Regulations-

(a) paragraph (2) shall have effect as if the notice required to be served thereunder were required to be served within six months after the commencement of these Regulations; and

(b) paragraph (5) shall have effect as if the notice required to be served thereunder by the Board were required to be served within six months of the date on which the related notice to renew was served on the Board.

Compensation payable by the Board on refusing to renew a lease

19.-(1) Where a notice to renew has been served on the Board by any person in accordance with paragraph (2) of regulation 18 in relation to any native land and-

(a) the Board has refused to grant a lease of that land for a further term or is deemed under paragraph (2) to have refused to grant such a lease; and

(b) at the expiration of the term in relation to, and during the currency of which, the notice to renew was served, the applicant shall have-

(i) paid the rent payable by him under the related lease or by virtue of the related agreement for a lease, as the case may be;

(ii) reasonably performed and observed the terms, covenants and conditions contained in the said lease or agreement and on his part to be performed and observed; and

(iii) yielded up possession of that land;

the Board shall pay to the applicant by way of compensation such sum as shall have been agreed by the Board and the applicant or as shall have been determined by arbitration on a reference made under and in accordance with paragraph (3).

(2) Subject to paragraph (4), for the purposes of paragraph (1), where such notice to renew has been served on the Board in relation to any native land, the Board shall be deemed to have refused to grant a lease of that land for a further term if the Board does not serve on the applicant-

(a) a notice under and in accordance with paragraph (5) of regulation 18; or

(b) at least six months before the expiry of the term in relation to, and during the currency of which, such notice to renew was served, a notice in writing intimating the decision of the Board to refuse to grant such a lease.

(3) Where, upon such notice to renew being served on the Board in relation to any native land, the Board has refused to grant to the applicant a lease of that land for a further term or is deemed to have done so as mentioned in paragraph (2), and the Board and the applicant are unable to agree the amount of the compensation payable under paragraph (1), the Board or the applicant may, at any time within the three months next following the expiry of the term in relation to, and during the currency of which, the notice to renew was served, refer the question of the amount of compensation which should be so payable for determination by arbitration in pursuance of regulation 21; and for the purposes of such arbitration the compensation properly so payable shall be taken to be the amount which might reasonably be expected to be obtained in the open market by a willing seller from a willing purchaser in consideration for the transfer of a lease of that land at the commencement of the term thereof if the Board had granted a lease of that land to the applicant in pursuance of paragraph (3) of regulation 18 upon such terms, conditions and covenants as are fair and reasonable having regard to the provisions of the Act and of these Regulations, but disregarding any element of development value.

(4) In any case to which paragraph (9) of regulation 18 applies-

(a) the foregoing provisions of this regulation shall have effect as if any reference therein to a notice to renew served under and in accordance with paragraph (2) of regulation 18 were a reference to a notice to renew served under and in accordance with that paragraph as having effect by virtue of the said paragraph (9);

(b) paragraph (2) shall have effect as if-

(i) the reference in sub-paragraph (a) thereof to paragraph (5) of regulation 18 were a reference to that paragraph as having effect by virtue of paragraph (9) of that regulation; and

(ii) the period referred to in sub-paragraph (b) thereof were the period of six months commencing on the date on which the notice to renew was served on the Board; and

(c) paragraph (3) shall have effect as if the period referred to therein were the period of three months next following the date on which the notice of the Board was served on the applicant under paragraph (5) of regulation 18, as having effect by virtue of paragraph (9) of that regulation or, as the case may require, the period of three months next following the expiry of the period of six months referred to in sub-paragraph (b) of paragraph (2), as having effect by virtue of sub-paragraph (a).

Boundary marks, etc.

20.-(1) Where the boundaries of any native land have been marked on the ground, then, whether or not the land has been surveyed, any person in occupation of the land under or by virtue of a lease, agreement for a lease or tenancy at will shall maintain such boundary marks in good condition and shall take all reasonable steps to-

(a) protect them from loss or damage and from being displaced;

(b) keep such boundary marks and the boundary lines free from any vegetation so as to enable them to be readily located and followed at any time.

(2) Where any boundary forms a common boundary between contiguous parcels of native land each of which is held under or by virtue of a lease, an agreement for a lease or a tenancy at will, the persons in occupation thereof shall be severally liable to comply with the provisions of paragraph (1).

(3) Any person who fails to comply with the provisions of paragraph (1) shall be liable for the payment to the Board of a sum equal to the cost of making good his default, and such sum shall be recoverable by the Board as a civil debt.

(4) In the event of a survey disclosing that any part of a parcel of land purporting to have been agreed to be demised under an agreement for a lease of native land is not native land or is comprised in a parcel of native land which has already been demised or agreed to be demised, such part shall be deemed to not to have been at any time comprised in the parcel of land agreed to be demised under that agreement.

Arbitration

21.-(1) Any matter referred for determination by arbitration under and in accordance with these Regulations, and any difference arising between the Board and any person touching anything contained in these Regulations, in the operation or construction of these Regulations, of any lease, agreement for a lease or licence, or the rights, duties and liabilities of the parties under or in connection with a lease, agreement for a lease or licence, shall be determined by a single arbitrator in accordance with the Arbitration Act:

Provided that nothing in this regulation shall be taken to authorise the reference for determination by arbitration of any difference arising out of the refusal of the Board to grant a lease of native land to any person otherwise than by way of renewal.

(2) In determining any rent, compensation or other payment referred to him under these Regulations, the arbitrator-

(a) shall disregard any proposal made by any party as to such rent, compensation or other payment; and

(b) shall have regard solely to the provisions of these Regulations with respect to any such matter so referred to him.

(3) The arbitrator may, if he so desires, sit with two assessors, one appointed by each party, but all decisions and any award shall be made by him and shall be his alone.

Revocation of Native Land (Leases and Licences) Regulations

22. The Native Land (Leases and Licences) Regulations are revoked.

Savings in relation to existing leases of native land, etc.

23.-(1) Notwithstanding the revocation of the Native Land (Leases and Licences) Regulations by regulation 22, the provisions of these Regulations set out in the Fourth Schedule shall continue to have effect in relation to any native land held under a lease, tenancy at will or by virtue of an agreement for a lease and in relation to any licence, where such lease, tenancy, agreement or licence was in force immediately before the commencement of these Regulations, in all respects as if these Regulations had not been made.

(2) The provisions of regulation 13 shall apply in relation to a lease or an agreement for a lease of native land entered into before, and in force at, the commencement of these Regulations except where the rent thereunder is not liable to reassessment at any time or was not, before the commencement of these Regulations liable to reassessment in accordance with the provisions of regulation 21 of the Regulations revoked by regulation 22:

Provided that-

(a) the rent shall not be reassessed more often than is provided for in the lease; and

(b) the amount of the rent as reassessed shall not exceed the maximum amount thereof provided for in the lease or by the aforesaid regulation 21.

FIRST SCHEDULE

(Regulation 2)

DEFINITION OF IMPROVEMENTS

The following shall be included within the meaning of "improvements":-

1. Clearing, levelling, grading and excavation of land
2. Drainage or irrigation of land
3. Reclamation of swamps or other soil conservation or reclamation works of a permanent nature
4. Wells, water tanks and water supply systems

5. Surveying and pegging of boundaries for the purposes of the Land Act
6. Placing of boundary marks
7. Erection of fences
8. Landscaping
9. Planting of long-lived crops, trees and shrubs
10. Laying out and cultivation of nurseries
11. Buildings and other structures
12. Fixed plant and machinery
13. Roads, tramways, yards, gates and bridges
14. Culverts, ditches, drains, soakaways, cesspits and septic tanks
15. Dips and spray races for livestock

SECOND SCHEDULE
(Regulation 5)

FORM OF LEASE

STAMP DUTY	MEMORANDUM OF LEASE	NATIVE LEASE NO.
\$: Stamp Duty paid vide RR. No. of Dep. Commissioner of Stamp Duties	Native Land Trust (Leases and Licences) Regulations (This lease must be in triplicate)	FEES. \$ c Registration Fee _____ Plan Fee _____ Total _____ Revenue Receipt No. _____ Date: _____ Initials: _____

The Native Land Trust Board (hereinafter called the Lessor) hereby leases to [name, residence, occupation, or other description of lessee], (hereinafter called the Lessee) to be held by the Lessee as tenant for the term of years commencing on the day of 19....., at the yearly rental of [in words and figures] to be paid to the Lessor in equal half-yearly instalments in advance on the first days of January and July in every year, ALL THAT PIECE OR PARCEL OF LAND described as follows and hereinafter referred to as the demised land:-

Name of Land	Tikina	Province	Area

			Ha.
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owned by the be the area a little more or less and contained within the boundaries more particularly delineated and marked on the plan hereto annexed and coloured excepting and reserving out of this demise all timber and timber-like trees, gravel and sand, lime and common stone, mines, minerals and petroleum, on or under the demised land together with full power for the persons entitled to such things to work and get the same either by entry on the surface or by underground workings.

This lease is subject to the following conditions, restrictions and covenants:-

Native Lease No:
Registered at:
Registrar of Titles

The Lessee hereby covenants that he will fulfil and be bound by all terms conditions restrictions and covenants expressed or implied herein or implied by any written law.

In witness whereof the Seal of the Board is hereunto affixed this day of 19....

The Common Seal of the Native Land Trust Board was hereunto affixed in pursuance of resolution of the Board by and in the presence of *Member of the Board*

The signature (or mark of) [if lessee is illiterate he must sign by affixing his left thumb mark if possible] was made in my presence and I verily believe that such signature is of the proper handwriting/left thumb print of the person describe in the above lease as *Secretary*

the lessee, and I certify that I have read over and explained the contents hereof to the lessee in the language and he appeared fully understand the meaning and effect thereof. *Lessee*

Witness

THIRD SCHEDULE
(Regulation 7)

SCALE OF FEES

	Description of matter (1)	Fee (2)
1.	On application for a lease or tenancy or licence.....	\$30
2.	Preparation of planning application, and submission to Department of Town and Country Planning, on behalf	

	of applicant	\$50
3.	Issuing a Survey Instructions to applicant's appointed land surveyor for preparation of survey diagrams	\$50
4.	Preparation and processing of Lease documents for registration under the Land Transfer Act	\$60
5.	Preparation and issuing of an Instrument of Tenancy (ALTA), or an Agreement for a Lease.....	\$60
6.	Application for, and Issue of, Certified copy of Title Document; advertising costs, plus	\$50
7.	Issue of licence	\$50
8.	On preparation of a variation document for lease or tenancy (but excluding that required for an increase in rent and a statutory extension under the Agricultural Landlord and Tenant Act)	\$40
9.	Application for the consent of the Board to the mortgaging of land	\$30
10.	Application for the consent of the Board to the subletting of land	\$30
11.	Application for the consent of the Board to the transfer of land.....	\$50
12.	Application for the sub-division of land (i.e. a surrender of part of the land included in a lease and its re-leasing in one or more lots to third party(ies).....	\$50
13.	Search Fee.....	\$5
14.	Application for approval of plans of buildings or other improvements (excluding installation of water meters).....	\$30
15.	Application for approval of installation of water meter.....	\$5
16.	Other matters	A fee commensurate with the work involved

FOURTH SCHEDULE
(Regulation 23)

PROVISIONS OF NATIVE LAND (LEASES AND LICENCES)
REGULATIONS SAVED

Maximum term of leases other than tramway and grazing leases

20-(1) Leases, other than tramway and grazing leases, shall for the purpose of determining the maximum terms thereof be classified as follows:-

(a) leases in properly designed areas in which due provision has been made for roading, commercial areas, school sites, cemetery and recreation reserves, etc.;

(b) leases of isolated unplanned areas outside the margins of settled areas;

(c) leases in settled areas requiring replanning and re-parcelling.

(2) The maximum term of a lease in class (a) above shall be ninety-nine years.

(3) The maximum term of a lease in class (b) above shall be fifty years provided that if during such term the land becomes part of a properly designed area the lessee shall surrender the lease and shall be entitled to a lease for ninety-nine years in class (a), subject to the necessary amendment of the boundaries.

(4) The Board shall divide leases in class (c) above into zones or groups, and shall fix the date of determination of all leases in such zones or groups. Such date shall be not later than thirty years after the commencement of these Regulations. No lease in such zones or groups shall be granted after such date except in accordance with an approved scheme of replanning and re-parcelling.

Term of tramway lease

(5) The maximum term of a tramway lease shall be ninety-nine years.

Term of grazing lease

(6) The maximum term of a grazing lease shall be fifty years, provided that the Board shall have power at the expiration of each ten-yearly period of the lease to resume any portion thereof not exceeding one-fifth of the original area of the lease, upon giving six months notice in writing of its intention to do so, without payment of compensation.

Conditions in leases other than commercial, residential or tramway leases

24. All leases other than commercial, residential or tramway leases shall be subject, in addition to any other conditions which the Board in the circumstances of any case may see fit to impose, to the condition that only such buildings shall be erected on the land as are necessary for-

(a) a dwelling or dwellings for the lessee;

(b) dwelling for persons *bona fide* employed on the land; such as stockmen, farm, plantation or quarry labourers and supervisors;

(c) accommodation for implements, vehicles, horses and other stock used in connection with the farm, plantation or quarry, or any building directly connected with the work of a farm, plantation or quarry, as the case may be.

Conditions of lease for agricultural purposes

25. All leases for agricultural purposes shall be subject, in addition to any other conditions which the Board in the circumstances of the case may see fit to impose, to the following conditions:-

(a) that the lessee shall within a specified number of years and under penalty of re-entry effect to the satisfaction of the lessor such permanent improvements, which may include fencing, as may be specified in the lease;

(b) that the lessee shall plant with crops in a good and husbandlike manner within the first five years of the lease at least one-fifth of the land suitable for cultivation; at least two-fifths of the said area within the first ten years of the lease; at least three-fourths of the said area within the first twenty years of the lease; and at least three-fourths of the land suitable for cultivation shall be kept planted as aforesaid for the remainder of the term of the lease;

(c) that the lessee shall manure the portions of the land planted as aforesaid and shall keep the whole in good condition and shall not allow any part to become impoverished and shall use such artificial or other manure as may be required by the lessor or an officer authorised by the lessor in that behalf in writing;

(d) that the lessee shall apply such measures to check soil erosion as may be required by the lessor in writing and shall maintain such measures to the satisfaction of the lessor or of an officer appointed by the lessor in writing. Such measure shall include one or more of the following: strip cropping, terracing, contour planting, cover cropping, rotation of cropping, construction of drains or dams, and construction of fences;

(e) that the lessee shall not fell trees or clear or burn off bush or cultivate any land within a distance of twenty-four feet from the bank of a river or stream;

(f) that the lessee shall not cultivate any crops within thirty-three feet of the centre of any public road or on a slope exceeding thirty-five degrees from the horizontal;

(g) that the lessee shall not clear, burn off or cultivate or permit excessive grazing of the top twenty-five per cent of the hills (as measured vertically) which have a slope exceeding twenty-five degrees from the horizontal.

Conditions of a lease for residential purposes

26. A lease for residential purposes shall be subject to the following special conditions in addition to any other conditions which the Board in the circumstances of any case may see fit to impose:-

(a) that the lessee shall within a specified number of years and under penalty of re-entry erect to the satisfaction of the lessor a dwelling-house on the demised land at such minimum expenditure or to such minimum specifications as may be specified in the lease;

(b) that the lease shall not without the written consent of the lessor erect or permit to be erected more than one dwelling-house upon the demised land;

(c) that the lessee shall not use or permit to be used the demised land or any part thereof or the dwelling-house or accessory outbuildings to be erected thereon, for any trade, business, occupation or calling whatsoever; and no act, matter or thing whatsoever shall, during the term of the lease, be done in or upon the said land or buildings or any part thereof, which shall or may be or grow to the annoyance, nuisance, damage or disturbance of the occupier, lessee, or owner of the adjoining lands:

Provided that a home industry approved by the lessor in writing or a professional practice may with the written consent of the lessor first had and obtained be conducted within the dwelling-house;

(d) that the lessee shall maintain and keep in good repair and tenantable condition, to the satisfaction of the lessor, all buildings erected upon the demised land;

(e) that the lessee shall not cover or permit to be covered with buildings more than one-third of the total area of the demised land.

Conditions of lease for commercial purposes

27. A lease for commercial purposes shall be subject to the following special conditions in addition to any other conditions which the Board in the circumstances of any case may see fit to impose:-

(a) that the lessee shall within a specified number of years under penalty of re-entry erect to the satisfaction of the lessor a commercial building on the demised land at such minimum expenditure or to such minimum specifications as may be specified in the lease;

(b) that the lessee shall maintain and keep in good repair and tenantable condition, to the satisfaction of the lessor, all buildings erected upon the demised land;

(c) that the lessee shall not cover or permit to be covered with buildings more than three-quarters of the area of the demised land;

(d) that the lessee shall not, without the prior consent in writing of the lessor, carry on or permit to be carried on in or upon the demised land any offensive trade or business as defined in the Public Health Act.

Conditions of lease for grazing purposes

28. A lease for grazing purposes shall be subject to the following special conditions in addition to any other conditions which the Board in the circumstances of any case may see fit to impose:-

(a) that the lessee shall within a specified number of years and under penalty of re-entry effect to the satisfaction of the lessor such permanent improvements, which shall include fencing, as may be specified in the lease;

(b) that if the Board is satisfied during any period of the lease that any portion of the land is being used for agricultural purposes otherwise than for growing crops for the use of stock or persons employed upon the land the Board shall have the right to reassess the rent of the land so used subject to penalty of re-entry should the lessee not accept such reassessment of rent;

(c) that the lessee shall stock the land at a minimum rate of one head of cattle or five sheep or goats per sixty-four acres within the first five years of the lease and at a minimum rate of two head of cattle or ten sheep or goats per sixty-four acres within ten years of the date of commencement of the lease and that the land shall be kept stocked as last aforesaid for the remainder of the term;

(d) that the lessee shall not clear, burn off, cultivate or permit uncontrolled grazing of the top twenty-five per cent of hills (as measured vertically) having a slope exceeding twenty-five degrees from the horizontal;

(e) that the lessee shall apply such measures to check soil erosion as may be required by the lessor in writing and shall maintain those measures to the satisfaction of the lessor or of an officer appointed by the lessor in that behalf in writing. Such measures may include the restriction of grazing, terracing, construction of drains or dams and the construction of fences;

(f) that the lessee shall not, without the prior consent of the lessor in writing, take, use or otherwise injure any forest tree growing upon the demised land except for the purpose of clearing the land for the planting of grass or of erecting fences or buildings incidental to the use of the land for grazing purposes.

Conditions of lease for gardening purposes

29. A lease for gardening purposes shall be subject to the following special conditions in addition to any other conditions which the Board in the circumstances of any case may see fit to impose:-

(a) that the demised land shall be used solely as a nursery, vegetable or pleasure garden or orchard, as the case may be;

(b) that the lessee shall manure the land and carry out any other measures, including green manuring and rotation of cropping, as may be specified in writing by the lessor, from time to time, to conserve the fertility of the soil;

(c) that a fixed sum shall be expended by the lessee in permanent improvements which shall be such as the lessor may decide in each case within a specified number of years under penalty of re-entry.

Conditions of lease for dairying purposes

30. A lease for dairying purposes shall be subject to the following special conditions in addition to any other conditions which the Board in the circumstances of any case may see fit to impose:-

(a) that the lessee shall within a specified number of years and under penalty of re-entry effect to the satisfaction of the lessor such permanent improvements, which shall include fencing, as may be specified in the lease;

(b) that there shall be planted with grass at least seven acres or one-tenth of the area of the land suitable for grazing dairy stock (whichever is the lesser area) within the first five years of the lease; at least fifteen acres or one-fifth of such area (whichever is the lesser area) within the first ten years of the lease; at least thirty acres or two-fifths of such area (whichever is the lesser area) within fifteen years from the date of commencement of the lease; and that for the remainder of the term of the lease not less than the minimum area last specified shall be maintained in good order and use;

(c) that all such areas planted in compliance with the provisions of paragraph (b) shall at all times be maintained free from weeds and undergrowth to the satisfaction of the lessor;

(d) that the lessee shall not clear, burn off, cultivate or permit uncontrolled or excessive grazing of the top twenty-five per cent of hills (as measured vertically) having a slope exceeding twenty-five degrees from the horizontal;

(e) that the lessee shall apply such measures to check soil erosion as may be required by the lessor in writing and shall maintain those measures to the satisfaction of the lessor or of an officer appointed by the lessor in that behalf in writing. Such measures may include the restriction of grazing, terracing, construction of drains or dams and the construction of fences;

(f) that the lessee shall not, without the written consent of the lessor, use more than three-quarters of the area contained in the lease for general grazing purposes apart from dairying.

Conditions of lease for tramway purposes

31. A lease for tramway purposes shall be subject to the following special conditions in addition to any other conditions which the Board in the circumstances of any case may see fit to impose:-

(a) that the lessee shall not erect on the demised land any building not incidental to the use of the land for tramway purposes;

(b) that the owners and occupiers of adjacent lands shall have the right at all times to cross the tramway lines laid or constructed provided they do not hinder or obstruct the passage of trains thereon;

(c) that the lessee shall form and maintain in good order to the satisfaction of the lessor during the currency of the lease, all level crossings and gates and such bridges as the public have the right to use; that the lessee shall have the right at any time during the currency of the lease to remove the tramway lines and bridges connected therewith except any bridge or bridges that may connect portions of the public highway.

Conditions of lease for quarrying purposes

32. A lease for quarrying purposes shall be used solely for the removal of sand, common stone, lime or other similar material and for the housing of the machinery and implements necessary therefore and the labourers employed thereon, and the royalty to be paid for such material and the manner of payment and the nature and value of the improvements required to be effected shall be set out in every such lease in detail.

Conditions of lease for special purposes

33. A lease for such special purposes as are not hereinbefore mentioned shall specify the purpose for which the land shall be used, the special conditions applicable thereto, and the nature and value of the improvements required to be effected thereon and shall include clauses specifying the frequency and method of reassessment of rent and the manner of its calculation.

General conditions

34. All leases shall be subject to the following conditions in so far as they are applicable to the circumstances of any case:-

(a) that fruit trees growing on the demised land shall not be cut down without the consent in writing of the lessor:

Provided that this stipulation may be deleted at the discretion of the lessor in leases for a period longer than twenty-one years;

(b) that any building erected by the lessee on the demised land shall be removable by the lessee within three months after the expiration of the lease:

Provided that-

(i) before the removal of any building the lessee shall pay all rent owing by him, and shall perform or satisfy all his other obligations to the lessor in respect of the demised land;

(ii) in the removal of any building the lessee shall not do any avoidable damage to any other buildings or other part of the demised land;

(iii) immediately after the removal of any building the lessee shall make good all damage occasioned to any other building or other part of the demised land;

(iv) the lessee shall not remove any building without giving one month's previous notice in writing to the lessor of his intention to remove it;

(v) at any time before the expiration of the notice of removal, the lessor, by notice in writing given by him to the lessee, may elect to purchase any building comprised in the notice of removal and any building thus elected to be purchased shall be left by the lessee and shall become the property of the lessor who shall pay to the lessee the fair value thereof to an incoming lessee of the land;

(vi) If the lessee applies for a renewal of the lease the provisions of paragraph (c) shall be deemed to cease to apply as from the date of application of the lessee for a renewal of the lease;

(c) that the lessee shall bear, pay and discharge all existing and future rates, taxes, assessments, duties, impositions and outgoings whatsoever imposed or charged upon the demised land or upon the owner or occupier in respect thereof, landlord's property tax only excepted;

(d) that the whole of any portion of the demised land used for the grazing of stock shall be enclosed with good and substantial fencing so that all stock kept upon the land shall at all times be adequately fenced in;

(e) that the lessee shall not remove or dispose of by sale or otherwise any forest produce growing upon the demised land without the written consent of the lessor first had and obtained and subject to such conditions as to the payment of royalty or otherwise prescribed by the Native Land (Forest) Regulations as the lessor may direct;

(f) that the lessee shall not alienate or deal with the demised land or any part thereof, whether by sale, transfer or sub-lease or in any other manner whatsoever without the consent in writing of the lessor first had and obtained:

Provided that nothing in this paragraph shall be taken to purport to require consent by the lessor to the mortgages referred to in the proviso to subsection (1) of section 12 of the Act;

(g) that the lessee shall not subdivide the land without the written consent of the lessor first had and obtained and then only in accordance with a plan of subdivision approved by the lessor in writing;

(h) that the lessee shall keep open and maintain in good condition all drains, ditches and water-courses upon or intersecting the land the subject of the lease, to the satisfaction of the lessor or the Commissioner;

(i) that in the event of any breach by the lessee of any covenant or condition in the lease, the lessor may enter upon and take possession of the demised land or may at the discretion of the Board impose a penal rent in respect of such breach.

SECTION 33 -NATIVE LAND (MISCELLANEOUS FORMS) REGULATIONS

TABLE OF PROVISIONS

REGULATION

1. Short title
2. Form of consent of native
3. Form of certificate
4. Form of notice
5. Form of order

Schedule - Forms

*Regulations 30 May 1940,
22 February 1946,
31 May 1965.*

Short title

1. These Regulations may be cited as the Native Land (Miscellaneous Forms) Regulations.

Form of consent of native owners

2. The consent of the native owners to any matter or thing in respect of which such consent is required to be given under the Act or any regulations made thereunder shall be given in such manner and evidenced in such form as the Board may consider appropriate and such consent shall be deemed to have been given if a majority of the adult native owners shall have signified their consent. (*Form 1.*)

(*Substituted by regulations 31 May 1965.*)

Form of certificate

3. A certificate under section 6 of the Act shall be in the Form 2 in the Schedule or as near thereto as the circumstances will permit.

(*Form 2.*)

Form of notice

4. A notice under subsection (3) of section 19 of the Act shall be in the Form 3 in the Schedule or as near thereto as the circumstances will permit.
(Form 3.)

Form of order

5. An order under subsection (6) of section 19 of the Act shall be in the Form 4 in the Schedule or as near thereto as the circumstances will permit.
(Form 4.)

SCHEDULE

(Amended by Regulations 22 February 1946.)

FORM 1

(Regulation 2)

RESOLUTION OF TIKINA COUNCIL

At a meeting of the Tikina Council of the Tikina of.....held at.....on the.....day of
....., 19....., it was resolved, with the consent of the native owners, that [*here set out terms
of resolution*].

Dated this.....day.....of....., 19.....

Buli

FORM 2

(Regulation 3)

FIJI

CERTIFICATE OF TRANSFER OF NATIVE LAND

The NATIVE LAND TRUST BOARD with the consent of the Tikina Council of the Tikina of.....in the Province of....., Fiji and on behalf of the Native Owners of the land hereinafter described DOTH HEREBY CERTIFY THAT in consideration of the sum of \$.....paid by the Director of Lands for the time being of Fiji (the receipt whereof the said Board for and on behalf of the said Native Owners doth hereby acknowledge) ALL THAT PIECE OF

LAND known by the name of.....situate in the Tikina of.....in the Province ofin the Island of.....and owned by the Mataqali.....and containing.....be the same or a little more or less the boundaries of which are more particularly delineated and described hereon and shown on Plan No.....deposited in the office of the Registrar of Titles and thereon coloured..... HAS BEEN TRANSFERRED to the said Director of Lands for and on behalf of the Crown subject to such leases and encumbrances as are specified in the Schedule hereto.

In witness whereof these presents have been executed this.....day of....., 19.....

The Common Seal of the Native Land Trust Board was hereunto affixed in pursuance of a resolution of the Board by and in the presence of:

Member of the Board

Secretary

Signed by the Director of Lands for and on behalf of the Crown.

Director of Lands

Certificate No.:

Endorsed.....at.....o'clock.....noon.

Register of Native Lands Folio:

Registrar of Titles

FORM 3
(Regulation 4)

NOTICE OF EXTINCTION OF MATAQALI

Notice is hereby given that.....has reported under section **19**(2) of the Native Land Trust Act that the mataqali.....owner of that portion of land containing.....acres and shown as Lot.....on plan No.....has ceased to exist by the extinction of its members.

Any person desirous of showing that the said mataqali has not ceased to exist may give notice of objection in writing to the Native Land Trust Board within three months of the publication of this notice.

Dated at Suva this.....day of....., 19.....

Secretary

(To be published in a newspaper published in the Fijian language and circulating in Fiji and in English in the Gazette.)

FORM 4
(Regulation 5)

ORDER OF THE NATIVE LAND TRUST BOARD

Whereas the mataqaliwas the owner of that piece of land containingmore or less and being Lot.....on plan No.....deposited with the Registrar of Titles:

And whereas the said mataqali has been reported to have ceased to exist by the extinction of its members:

And whereas notice has been published in a newspaper published in the Fijian language and circulating in Fiji and in the Gazette stating that it has been reported to the Native Land Trust Board that the said mataqali has ceased to exist by the extinction of its members:

And whereas a copy of the said notice has been served on the roko tui of the province in which the said land is situate:

And whereas no objection has been received to such report within the time prescribed: or

And whereas the objections received to such report have been duly investigated and disallowed and notice of such disallowance given as prescribed:

And whereas the said Board is satisfied that the said mataqali has ceased to exist by the extinction of its members:

And whereas it is provided by section **19** subsection (1) of the Native Land Trust Act that the land of any extinct mataqali shall fall to the Crown as *ultimus haeres* to be dealt with as therein provided:

Now therefore the Native Land Trust Board doth hereby order that the above-described land shall be retained and dealt with by the Crown in terms of section **19** subsection (1) of the Native Land Trust Act.

In witness whereof the Seal of the Board is hereunto affixed this day of,19
.....

The Common Seal of Native Land Trust Board was
hereunto affixed in pursuance of a resolution of the board by
and in the presence of:

Member of the Board

Secretary

TABLE OF PROVISIONS

REGULATION

1. Short title
2. Appointment of Commissioner and assessors
3. Power to summon witnesses, etc.
4. Notice of sittings
5. Meeting of tikina council
6. Sittings
7. Adjournment of sittings
8. Language of proceedings
9. Attendance of lessee affected
10. Report of Commissioner to Board

Schedule-Claim for Native Reserve

*Regulations 30 May 1940,
22 February 1946,
3 March 1958,
31 May 1965,
Legal Notice No. 112 of 1970*

Short title

- I. These Regulations may be cited as the Native Land (Native Reserves) Regulations.

Appointment of commissioner and assessors

2.-(1) The Minister may appoint a Commissioner, who shall be charged with the duty of holding inquiries for the purpose of ascertaining the boundaries of portions of native land which the native owners desire should be set aside and notified as native reserves, and may appoint a person or persons to assist such Commissioner, and may, by general or special order published in the Gazette, confer on any such person or persons all or any of the powers of the Commissioner under these Regulations; and the term "Commissioner" wherever it is used in these Regulations shall include a person duly appointed under this paragraph to assist the Commissioner.

(Amended by Regulations 3 March 1958; Legal Notice 112 of 1970.)

(2) The Minister may appoint for the inquiries in each province a person being a native Fijian to sit as assessor with the Commissioner appointed as aforesaid.

(Amended by Legal Notice 112 of 1970.)

Power to summon witnesses, etc.

3. For the purposes of any inquiry the Commissioner shall have the same powers as those vested in magistrates to summon and examine on oath all owners of any land the reservation of which is being inquired into and any person whom he may think able to give relevant evidence.

Notice of sittings

4.-(1) When the Commissioner is about to institute inquiries as aforesaid notice of the time and place at which the first sitting will be held shall be given to the buli of the tikina by the Commissioner of the Division in which the inquiries are to be held.

(2) The notice shall be delivered to the buli not less than fourteen days before the sitting. In the absence of any buli from his place of residence the notice shall be delivered to the tikina scribe or such other person as the Commissioner of the Division may appoint for the purpose.

(3) The buli or other recipient of the notice shall cause the time and place of the sitting of the Commissioner to be publicly proclaimed in each village within his tikina.

(4) A general notice of the intention to hold an inquiry giving the time and place of the meeting shall be published in the Gazette and in Na Mata.

Meeting of tikina council

5. On receipt of the notice provided for in paragraph (1) of regulation 4 by the buli or other recipient of the notice shall convene a special meeting of the tikina council within forty-eight hours, and call upon the heads of the land-owning units within the tikina to cause the members thereof to prepare particulars of the boundaries of reserves desired by them.

Sittings

6. The statement of particulars prepared under the provisions of regulation 5 shall be examined by the Commissioner, who may accept it as a basis for his recommendation in respect of reservations within the tikina, and the Commissioner shall, when he deems it advisable to do so, call and examine witnesses and make such alterations and amendments in the statements as are justified by the evidence elicited.

Adjournment of sittings

7. The Commissioner may at his discretion from time to time adjourn the sitting either *sine die* or to a fixed time and place. All members of land-owning units within the tikina in which the Commissioner is sitting at the time of adjournment shall be deemed to have notice of the adjournment.

Language of proceedings

8. All proceedings before the Commissioner shall be conducted in the Fijian language.

Attendance of lessee affected

SECTION 33-NATIVE LAND (UNCLAIMED DEPOSITS) REGULATIONS

TABLE OF PROVISIONS

REGULATION

1. Short title
2. Advertisement of unclaimed deposits
3. Unclaimed Deposits Reserve Fund
4. Disposal of unclaimed deposit
5. *Ex gratia* payments

Legal Notice No. 129 of 1975

Short title

1. These Regulations may be cited as the Native Land (Unclaimed Deposits) Regulations.

Advertisement of unclaimed deposits

2. The Native Land Trust Board, hereinafter referred to as the Board, may at any time cause to be advertised, in each of the English and Fijian languages, at least twice at intervals of fourteen days in newspapers published and circulating in Fiji details of all rents, royalties and premiums in respect of leases or licences in respect of native land received by the Board and remaining unclaimed three months after the date of deposit with the Board.

Unclaimed Deposits Reserve Fund

3. Any such rents, royalties or premiums so deposited with the Board to which no valid claim is made at the expiration of six months from the last date of advertisement referred to in regulation 2 may be transferred to a reserve fund to be known as the Unclaimed Deposits Reserve Fund.

Disposal of unclaimed deposits

4. The Unclaimed Deposits Reserve Fund shall be disposed of by the Board from time to time in such manner as the Board shall deem appropriate for the furtherance of the purposes of the Act.

Ex gratia payments

5. For the avoidance of doubt it is hereby expressly declared that, notwithstanding any of the provisions of these Regulations, the Board may in its absolute discretion agree to make an *ex gratia* payment in full or partial settlement of any claim for the refund of a deposit submitted to the Board at any time.

Controlled by Ministry of Fijian Affairs